

No. 9(1)81-8Lab./9712.—In pursuance of the provision of the section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Gazelle Enterprises, 21/6 KM, Mathura Road, Gurgaon :—

**IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD**

Reference No. 269 of 1980

between

**SHRI KRISHAN CHAND WORKMAN AND THE MANAGEMENT OF M/S
GAZELLE ENTERPRISES, 21/6, K.M., MATHURA ROAD, FARIDABAD.**

Appearances:

Shri Darshan Singh for the workman.

Shri R.C. Sharma for the management.

AWARD

This reference No. 269 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/190-80/30741, dated 20th June, 1981 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between, Shri Krishan Prashad workman and the management of M/s. Gazelle Enterprises, 21/6 K.M., Mathura Road, Faridabad. The term of the reference was :—

Whether the termination of services of Shri Krishan Chand was justified and in order ? If not, to what relief is he entitled ?

The notices were issued to the parties. On the notices, the parties came present and filed their pleadings and on the pleadings of the parties, the issue as per reference was drawn and the respondent management lead the evidence.

The case of the workman according to his demand notice and claim statement is that the workman joined the service of the respondent on 1st May, 1979 as Turner on a salary of Rs. 250 p.m. and the respondent terminated the service of the workman on 19th March, 1980 without giving any notice or charge-sheet or warning and that the action of the respondent is illegal and unjustified. He has prayed for the re-instatement of service with full back wages. On the other hand, the case of the respondent according to their written statement is that the workman joined their services on 1st December, 1979 as Turner at a salary of Rs. 275 per month on probation for three months only and his services were terminated on 19th March, 1980 because his work was not satisfactory. They have stated that their action is under the law and justified. So this may be rejected. My finding on issue No. 1 is as under :—

Issue No. 1.—After the issues the respondent lead the evidence on this issue and produced Ex. M-1, a ppointment letter, Ex. M-2 a copy of the letter sent to the Conciliation Officer and produced on oral witness Shri Surender Kumar MW-1 and closed their evidence. Ex. M-1 is appointment letter in which it is mentioned that the workman was appointed on 1st December, 1979 as Turner at a salary of Rs. 275 for 3 months on probation. The workman has also signed this letter at Mark A & B in token of its acceptance. Ex. M-2 is a letter to the Conciliation Officer from the respondent in which the respondent has taken the same plea which they have taken in their written statement in this Court that the workman

was appointed on probation for three month and when the work of the workman was not found satisfactory they have terminated the services after expiry of the probation period. The witness of the respondent MW-1 Shri Surender Kumar has supported the case of the respondent. He has brought the attendance register and payment of wages register from April, 1979 to March, 1980 and according to the register and statement of the MW-1, the workman joined the service of the respondent first time on 1st December, 1979 and his services were terminated on 20th March, 1980 because his performance of duty was not satisfactory.

The respondent closed his case on 29th August, 1980 and case was fixed for evidence of the workman for 21st October, 1980 from 21st October, 1980 to 27th April, 1981. The case was adjourned on dated 9th December, 1980, 13th January, 1981, 11th February, 1981, 17th March, 1981. On 27th April, 1981, may and predecessor ordered for the close of the case of the workman as he has no interest in the case as he has failed to produce any evidence or even his own statement in the case. In these circumstances there is no evidence of the workman except the claim statement demand and notice and in the above circumstances it is presumed that the workman might have settled the dispute with the respondent and has no interest in the case. So he has not attended the proceedings of the Court even after so many opportunities given to the workman. The evidence of the respondent has not rebutted by the workman. In the above circumstances, I hold that there is no dispute left between the parties. So no relief is required for the workman. This may be read as answer of this reference.

HARI SINGH KAUSHIK,

Dated 10th August, 1981.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 2557, dated 17th August, 1981.

Forwarded (four copies) to the Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947 with the request that the receipt of above said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 7th September, 1981

No. 9(1)81-8 Lab/10038.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s (i) Ram Lal Bhatia, House No. 10, Ram Bagh Road, Ambala Cantt., (ii) Parkash Enterprises, Kuldip Nagar, Ambala Cantt.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference Nos. 401, 402 and 403 of 1980
between

SARVSHRI RAM TIRTH, KULBHUSHAN AND PREM AND THE MANAGEMENT OF M/S (I) RAM LAL BHATIA, HOUSE NO. 10, RAM BAGH ROAD, AMBALA CANTT. (II) PARKASH ENTERPRISES, KULDIP NAGAR, AMBALA CANTT.

Present.—

Shri B. S. Saini for the workman.

Shri A. K. Gupta for the management.

AWARD

These references Nos. 401, 402 and 403 of 1980 have been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his orders No. ID/Amb/127-80/44309, 44302 and 44295, dated 18th August, 1980, respectively under Section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Ram Tirth, Kulbhushan and Prem and the management of M/s (i) Ram Lal Bhatia, House No. 10, Ram Bagh Road, Ambala Cantt, (ii) Parkash Enterprises, Kuldip Nagar, Ambala Cantt. The term of the reference was :—

Whether the termination of services of S/Shri Ram Tirth, Kulbhushan and Prem were justified and in order ? If not, to what relief are they entitled ?

On receipt of the order of these references, notices were sent to the parties for their appearance. The parties came present in the Court and filed their pleadings. On the pleadings of the parties, following issues were framed :—

- (i) whether the respondent factory has since been closed ? If so, to what effect ?
- (ii) whether the termination of services of the workmen is proper, justified and in order ? If not, to what relief are they entitled ?

The cases were fixed for the evidence of the parties and on 24th March, 1981, both representatives of the parties requested the Court to consolidate all these three references because they are for the same parties and with the same subject matter. The Court ordered for the consolidation of all these three references and ordered for the evidence of the management. It is ordered in the file that the evidence shall be recorded in reference No. 401 of 1980 and it shall be read in all these references.

The respondent management produced Shri Ram Lal Bhatia respondent No. 1 as MW-1, Shri Prem Parkash on behalf of respondent No. 2 as MW 2 and Shri Suresh Kumar Partner of the firm as MW-III and produced documents Exhibit M-1 to 7 and closed their case. The workmen produced Exhibit W 1 to Exhibit W 6 and gave their own statements and closed their evidence. My issue-wise finding is as under :—

Issue No. 1.—Issue No. 1 is that the respondent factory has since been closed ? If so, to what effect. The respondent in their written statement has stated that respondent factory has been closed after giving one month's notice to the workmen for its closure. The workmen in their statement have also admitted to this fact that the respondent factory has been closed and they have received one month's notice for the closure of the factory. When both the parties admits the same fact then there is no need of any discussion in the matter. It is admitted fact that the respondent factory has been closed and for the closure, the workmen approached the authority under Payment of Wages Act and before him the workmen received their full and final payment of the claim. The authority under Payment of Wages Act has also signed the receipts Exhibit M 7 and Exhibit M 1 in token of their payment. When the workmen have received their full and final payment before the authority under Payment of Wages Act then there is no relief remained in respect of issue No. 1 and the representative of the workmen also admitted this fact before me at the time of argument. So this issue goes in favour of the management and against the workmen.

Issue No. 2.—Issue No. 2 is whether the termination of services of the workmen was justified and in order ? If not, to what relief are they entitled. Regarding this issue, the respondent factory has already been closed. After giving one month's notice to the workmen as admitted by the workmen themselves in their statement as witnesses WW 1 and WW II. They have stated in their statements that as the factory has been closed after giving one month's notice and they have received the amount before the authority under Payment of Wages Act

but they have not received the compensation for terminating the services. This is the reference for the termination of services to adjudicate whether the orders is justified and in order. The respondent has not terminated the services by any order. They have given one month notice to their employees and paid the wages accordingly before the Authority under payment of Wages Act who has also signed the receipts of payment of money to the workman. The representative of the workmen stated that he needs nothing except the compensation for finishing their jobs. In my view, in these references they are not entitled any such relief except the re-instatement of the workmen which is not possible when the respondent factory has already been closed. So no relief can be given to the workmen in these references. They are at liberty to seek the remedy under the law. As references are consolidated so each copy of my award be put up in all these references separately. No order as to costs. This may be read an answer of these references.

Dated the 16th August, 1981.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 2592, dated 27th August, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the abovesaid award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab/10039.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Faridabad Complex, Ballabgarh Zone, Ballabgarh.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, FARIDABAD

Reference No. 82 of 1980

between

Shri Johri Lal, workman and the management of M/s Faridabad Complex,
Ballabgarh Zone, Ballabgarh.

Presents

Shri Hari Singh Yadav, for the workman.

Shri H. R. Dua, for the management.

AWARD

This reference No. 82 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/48-79, dated 25th February, 1980 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Johri Lal, workman and the management of M/s. Faridabad Complex, Ballabgarh Zone, Ballabgarh. The term of the reference was—

Whether the termination of services of Shri Johri Lal was justified and in order ? If not, to what relief is he entitled ?

After receiving this reference, notices were sent to the both parties. The claimant and respondent management filed their pleadings. On the pleadings of the parties following issues were framed :—

- (i) Whether the workman claimant was on probation period according to the Industrial Disputes Act ? If so, to what effect ? (O.P.M.)
- (ii) Whether the termination of services of Shri Johri Lal is proper and justified ? If not, to what relief is he entitled ? (O.P.M.)
- (iii) Relief.

The case of the applicant according to his claim statement is that he was appointed as sweeper on 1st January, 1971 and his services were terminated,—*vide* order dated 28th March, 1979 without assigning any reason. No charge-sheet or enquiry was held before terminating the services of the applicant. The termination of services of the applicant is arbitrary and illegal and against cannot of justice. He was drawing Rs. 280 per mensem at the time of termination. The claimant has prayed for the reinstatement with full back wages with continuity of services.

On the other hand, respondent management has stated in their written statement that the applicant was appointed on 11th March, 1976 as severman on probation period for a period of 2 years. Since the work of the claimant was not satisfactory so the probation period was extended for another one year. His work was not satisfactory and he failed in his duties to improve his work. So his services were terminated on 24th March, 1979.

The respondent management produced Ex. M-1 a copy of appointment letter and Ex. M-2 a copy of termination order and produced one oral witness Shri Deep Chand, Clerk of the respondent management who has supported the case of the management. My finding on issue No. 1 is as under :

Issue No. 1

Issue No. 1 is whether the workman was on probation period. To prove this issue the respondent management produced Ex. M-1 and Ex. M-2. In Ex. M-1, the applicant was appointed from 1st March, 1976 on probation for a period of two years and Ex. M-2 the termination order by which the services of the applicant were terminated as the same are no longer required by the administration. Shri Deep Chand, Clerk of the respondent management appeared as MW-1 and deposed that the applicant was appointed on 1st March, 1976 on regular basis. He was not temporary. He further stated that he was on probation and his probation period was extended. He further stated that nobody can be confirmed except confirmation letter. He stated that the services of the applicant were terminated because his work was not found satisfactory. In his cross-examination, he has admitted that the applicant was taken in service on *ad hoc* basis for the period of one month. On 9th April, 1975, this *ad hoc* appointment was extended up to 1st March, 1976 and the services of the applicant were regularised. From 1st March, 1978 his probation period was extended for one year more. He has admitted in cross-examination that there is no extension after 24th March, 1979 onwards. The applicant stated as his own witness as WW-1 that he joined the respondent complex from January, 1971 as severman at the salary of Rs. 220 per mensem. He further stated that he worked with the respondent uninterruptedly and the record of services was quite clear. There was no allegation against the applicant. In his cross-examination he has stated that he was given no appointment letter in the year 1971 and denied the suggestion that he was appointed on 1st March, 1976 on probation for two years and his services were terminated due to unsatisfactory work. In this case the statement of Shri Deep Chand as MW-1 clears the position regarding appointment of the applicant. He has admitted in his cross-examination that on 9th April, 1975, the applicant was appointed on *ad hoc* basis for one month and this *ad hoc* appointment continued up to 1st March, 1976 for one year. After one year, the applicant was appointed on probation for two years and after two years according to the statement of MW-1 and written statement of the respondent, the probation period was extended for one year. After expiry of the period, the services

of the claimant were terminated as they are no longer required. He has stated in his statement that the applicant was not temporary. According to the statement of the petitioner, he was appointed in the year 1971. He has stated this fact even in his demand notice dated 12th June, 1979 for which the respondent management has given no answer. It shows that the applicant was appointed before the time admitted by the respondent management. The witness of the respondent management has admitted in his statement that the applicant was appointed on 9th April, 1975 on *ad hoc* basis. The respondent management in his written statement has not come with clean hands and stated that the applicant was appointed on 11th March, 1976 on probation. They should have stated in the written statement clearly that the applicant was appointed on *ad hoc* basis prior to this date. In the written statement, the respondent has mentioned that the applicant was appointed on 11th March, 1976 and in appointment letter Ex. M-1, it is written that he was appointed on 1st March, 1976. The fact is that the applicant was in the services of the respondent management prior to the date mentioned and admitted by the respondent. According to the termination order, there is nothing mentioned except that the services are no longer required by the administration. There is no allegation shown in the termination order. The respondent management nowhere alleged that how the work of the applicant was not satisfactory. I hold that the applicant was in the service of the management before the appointment which is shown as probation period. When the person was working with the respondent management from a long time it cannot be called the probation period. The applicant was not on probation. In this way issue number one as discussed above goes in favour of the workman and against the respondent management.

Issue No. 2

Issue No. 2 is whether the termination of services of the workman is proper and justified. The respondent management or the applicant has not produced any other evidence for this issue. Both the parties have relied at the same evidence. So in view of the present evidence on the file and my decision on issue number one, it is quite clear that the termination order was not justified and not in order. The witness of the respondent management Shri Deep Chand as MW-1 has admitted this fact in his statement that the applicant was not temporary and when the witness of the respondent admits that the applicant was not temporary and regular one then he should have removed after a due procedure taken according to the rules and laws which is not taken in the present case. The services of the applicant terminated after a continuous service of three years without assigning any reasons or notice to the applicant. The respondent management has not produced any such evidence which can show that the work of the applicant was not satisfactory. He was appointed on *ad hoc* basis on 9th April, 1975. After that he was appointed on 1st March, 1976 and his services were terminated on 28th March, 1979. According to the statement of MW-1 that if his work was not satisfactory why he was allowed to continue for such a long time. According to my above discussion, I hold that the order of the respondent management was not justified and not in order. So the finding of this issue also goes in favour of the applicant and against the management.

In the view of the above decision on issues, the applicant is entitled for his reinstatement with continuity of services and with full back wages. No order as to costs. This may be read an answer of this reference.

Dated the 18th August, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana
Faridabad.

Endorsement No. 2593, dated 27th August, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industries Disputes Act, 1947, with the request that the receipt of the abovesaid award may please be acknowledged within week's time.

HARI SINGH KAUSHAK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.